

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FISCHER *et al.*

Appl. No.: 10/591,128

§ 371(c) Date: June 7, 2007

For: **Oil-Based Suspension Concentrates**

Confirmation No.: 7332

Art Unit: 4131

Examiner: BUCKLEY, Audrea

Atty. Docket: 2400.0720000/RWE/L-Z

**Reply to Restriction Requirement**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated June 16, 2009, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-5, 7-9 and 12. Applicants also hereby provisionally elect species A (an oil based suspension concentrate comprising a compound of formula (I') in which V is N-D, and A and B together with the carbon atom to which they are attached form a substituted six-membered carbon ring). Claims 1-5, 7-9 and 12 read on species A.

This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

**This election is made with traverse.**

The present patent application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies to the present application.

Claims of Group I (claims 1-5, 7-9 and 12) are directed to an oil based suspension concentrate, claim of Group II (claim 6) is directed to a process for preparing

the suspension concentrate; and claims of Group III (claims 10 and 11) are directed to a method of using the suspension concentrate. Groups I-III therefore are related as products, processes for manufacturing such products, and a use of such products, respectively. Section 1.475 (b)(3) of Title 37 of the Code of Federal Regulations states that a national stage application containing claims to a product, process of manufacture, and a process of use of said product will be considered to have unity of invention. Examining these four groups together would therefore not place an undue burden on the Examiner. Accordingly, Applicants respectfully request that the Examiner reconsiders the Restriction Requirement, and examines the claims of Groups I-III together.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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